

SAFETY REGULATION OF OIL PIPELINES

JULY 9 (legislative day, JULY 8), 1965.—Ordered to be printed

Mr. MONRONEY, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 1021]

The Committee on Commerce, to whom was referred the bill (S. 1021) to amend title 18, chapter 39, of the United States Code entitled "Explosives and Combustibles," having considered the same report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY OF PROPOSED LEGISLATION

This bill would amend section 831 of title 18 of the United States Code to give the Interstate Commerce Commission specific statutory authority and responsibility for the safety regulation of all pipelines (other than those used for the transmission of water and gas) operating in interstate commerce.

NEED FOR LEGISLATION

In the Department of Commerce's "Report on Movement of Dangerous Cargoes," dated September 30, 1963, it was pointed out that "no Federal agency now has authority for safety regulation of pipelines" (p. 3, par. 3). This report followed an interagency study coordinated by the Office of the Under Secretary of Commerce for Transportation. The 22 Federal agencies involved in the study approved the following recommendation:

The Interstate Commerce Commission should be given specific authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines).

Prior to the enactment of Public Law 86-710 on September 6, 1960, the definition of "carrier" in the Transportation of Explosives Act

included oil pipelines. When that act was amended in 1960, primarily to extend the Commission's safety jurisdiction over private carriers, the definition of "carrier" was revised to exclude oil pipelines. The testimony of witnesses for the Department of Commerce, the Interstate Commerce Commission, and the oil pipeline industry indicated that they know of no reason for this exclusion and believed that it had been done inadvertently.

At the hearing held on this bill on June 3, 1965, the Chairman of the Interstate Commerce Commission noted that the accident experience of oil pipelines does not disclose any pressing need for Federal safety regulation, but that the proposed legislation does seem desirable because it will protect interstate pipeline carriers against the threat of conflicting safety legislation by the States. The Chairman also pointed out that this proposed legislation would enable the Commission to cope with any safety hazards which may arise in the future by virtue of changes in the operations or traffic content of pipelines.

The Deputy Under Secretary for Transportation, Department of Commerce, recommended enactment of this bill as another step toward the completion of a rational, unified transportation policy. He stated that he knew of no opposition to the bill, and that the Department of Commerce was pleased to note the apparent unanimity of concern in the uniform regulation of carrier safety by the Federal Government.

The general counsel of the Association of Oil Pipe Lines testified that the safety record of oil pipelines has been, and continues to be, outstanding. He held that if there is to be safety regulation of the industry by a governmental body, then Federal regulation would be appropriate to the interstate nature of oil pipelines and would produce a uniformity and consistency of safety standards that would be in the public interest. He further testified that the lack of Federal safety regulation has given rise to an increasing tendency to have safety regulation at the State, county, and parish level with the possibility of conflicts or inconsistencies between such local regulations.

Testimony was also received by the committee from the Board of Commissioners, Chester County, Pa., and the Southeastern Pennsylvania Landowners Association. These witnesses expressed concern that the bill would preempt the field of pipeline safety. The committee does not intend that this bill preempt the field, any more than Commission safety regulation has preempted the field in the safety regulation of railroads or motor carriers. The committee does intend that the safety regulations of the Commission under the proposed legislation supersede any conflicting legislation by the States or at the local level in order to avoid a multiplicity of conflicting regulations.

PURPOSE OF THE BILL

This legislation restores to the Commission safety jurisdiction over oil pipelines as it existed prior to the 1960 amendments. Title 18, chapter 39, of the United States Code governs the transportation of explosives and other dangerous articles. Section 834 of that chapter directs the Interstate Commerce Commission to formulate regulations for the safe transportation by carriers of such dangerous articles. As a result of the 1960 amendments, section 831 defines "carrier"

to expressly exclude pipelines. This proposed legislation would amend section 831 to redefine "carrier" to specifically include oil pipelines. While the deletion of the express exclusion alone would, in the committee's opinion, make pipelines subject to regulations issued by the Commission under section 834, the committee has reported the bill as introduced which specifically adds pipelines to the definition section. The committee notes that since under the definition contained in sections 1(3)(a) and 1(1)(b) of the Interstate Commerce Act, "common carrier" includes a pipeline company engaged in the transportation of oil or other commodity, except water and except natural or artificial gas. Striking the three words "other than pipelines" in section 831 restores the Commission's authority to formulate safety regulations for pipelines (other than water or gas) and to administer and enforce the provisions of the law relating to the transportation of combustibles and explosives as they pertain to such pipeline companies. The addition of the words "or pipeline" to section 831 in the proposed legislation clarifies the intent of the committee to restore the Commission's authority as it existed prior to the 1960 amendments.

COST

The enactment of this legislation should result in no appreciable increase in the administrative costs of the Interstate Commerce Commission.

AGENCY COMMENTS

The Chairman of the Interstate Commerce Commission and the Deputy Under Secretary for Transportation, Department of Commerce, testified in support of the bill at the hearing. In addition, the Commission and Department submitted comments to the committee favoring enactment. The Comptroller General also recommended favorable consideration. The Department of Justice advised that it had no objection to the enactment of this bill.

The comments of the agencies and Departments are set forth in full as follows, for the information of the Senate:

INTERSTATE COMMERCE COMMISSION,
March 11, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: Your letter of February 10, 1965, addressed to the Chairman of the Commission, and requesting comments on a bill, S. 1021, introduced by Senator Monroney, to amend title 18, chapter 39, of the United States Code, entitled "Explosives and Combustibles" has been referred to our Committee on Legislation. After consideration by that committee, I am authorized to submit the following comments in its behalf:

S. 1021 would amend section 831 of title 18 of the United States Code, to give the Interstate Commerce Commission specific statutory authority and responsibility for the safety regulation of all pipelines (other than those used for the transmission of water and gas) operating in interstate or foreign commerce.

Although the accident experience of these pipelines does not disclose any pressing need for Federal safety regulation, the proposed legisla-

tion does seem desirable in that it would protect interstate carriers against the threat of conflicting safety legislation by the States, and also enable the Commission to cope with any safety hazards which may arise in the future by virtue of changes in the operations or traffic consist of pipelines.

For these reasons, we favor enactment of S. 1021.

Respectfully submitted.

CHARLES A. WEBB,
Chairman, Committee on Legislation.

CHARLES A. WEBB.
JOHN W. BUSH.
EVERETT HUTCHINSON.

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., May 25, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in further reply to your request for the views of this Department with respect to S. 1021, a bill to amend title 18, chapter 39, of the United States Code entitled "Explosives and Combustibles."

The proposed legislation would place pipelines under the jurisdiction of the Interstate Commerce Commission for the purpose of establishing safety regulations for interstate pipelines.

In the Department's "Report on Movement of Dangerous Cargoes," dated September 30, 1963, it was pointed out that "no Federal agency now has authority for safety regulation of pipelines" (par. 3, p. 3). Recommendation was made that corrective legislation be prepared so as to give to the Interstate Commerce Commission "specific statutory authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines)" (par. 2, p. 6).

The proposed legislation, S. 1021, would accomplish this purpose and the Department recommends enactment.

We have been advised by the Bureau of the Budget that there would be no objection to submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 17, 1965.

B-104189.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: We have your letter of February 10, 1965, in which you asked for our comments on S. 1021.

This bill proposes to include carriers by pipeline in the definition of "carrier" in the Transportation of Explosives Act, as amended by

Public Law 86-710, 74 Stat. 808, 18 U.S.C. 831. Prior to enactment of Public Law 86-710 (approved September 6, 1960), which added a definition of "carrier" specifically excluding pipelines, carriers by pipeline were assumed to be included among the interstate carriers subject to safety regulation by the Interstate Commerce Commission as provided in 18 U.S.C. 834.

The Transportation of Explosives Act, as amended, contemplates a comprehensive code of uniform safety regulations applicable to the carriage of explosives, toxic and etiologic agents, radioactive materials and other dangerous articles, via all modes of interstate transportation. Undoubtedly some of these materials are subject to interstate transportation by pipeline and, if so transported, should be handled under precautions comparable to those applicable to carriage by other modes. Interstate Commerce Commission safety jurisdiction over interstate carriers by pipeline would also relieve the latter of the need for compliance with the varying safety requirements of the several States.

While the type of legislation proposed in S. 1021 would not, if enacted, directly affect the functions and operations of our Office, we think it is in the public interest. Accordingly, we recommend that your committee give favorable consideration to S. 1021.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 11, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning S. 1021, a bill to amend title 18, chapter 39, of the United States Code entitled "Explosives and Combustibles."

Chapter 39 of title 18, United States Code, regulates the transportation of explosives and other dangerous articles. In particular, section 834 of that chapter directs the Interstate Commerce Commission to formulate regulations for the safe transportation by carrier of such dangerous articles. However, section 831 defines "carrier" to exclude pipelines. The bill would amend section 831 to delete this express exclusion, thereby making pipelines subject to regulations issued by the Commission under section 834.

We understand that the enactment of S. 1021 is favored by the Interstate Commerce Commission, the agency which would have primary responsibility over the subject matter. The Department of Justice has no objection to its enactment.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

SECTION 831 OF TITLE 18, UNITED STATES CODE

§ 831. Definitions.

As used in this chapter—

Unless otherwise indicated "carrier" means any person engaged in the transportation of passengers or property, by land, [other than pipelines,] as a common, contract, or private carrier, or freight forwarder, or *pipeline* as those terms are used in the Interstate Commerce Act, as amended, and officers, agents, and employees of such carriers.

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